

UK Labor: Deliberate Delay Designed To Damage Third Parties May Prevent Otherwise Available Remedies

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In *Legends Live Ltd v Harrison*, the claimant, who ran a musical tribute show, decided to set a deadline for compliance with a non-compete clause in the contract of the defendant (a former employee) to maximise the negative impact on its rival musical tribute show. The defendant was due to commence work for the rival tribute show two days after that deadline. In the absence of a satisfactory explanation, the claimant's delay in seeking an injunction was inferred as deliberately timed to cause loss to its rival show, and as such, the otherwise available injunction was refused. The duration of the delay is less important than the reasons for which it occurred.

What Should Employers Do Next?

Legal advice on tactical decisions to delay enforcing provisions in employment contracts should be sought. Very often in the enforcement of post-termination restrictions, in particular non-compete provisions, a delay by the claimant can be fatal to the chances of successfully obtaining an injunction. However this case highlights that the Courts will place some weight on the reasons for the delay, and will not support claimants who are trying to obtain a competitive advantage by delaying.

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